

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

LISA BARBOUNIS

Plaintiff,

-vs-

THE MIDDLE EAST FORUM,  
DANIEL PIPES (*individually*),  
GREGG ROMAN (*individually*), and  
MATTHEW BENNETT (*individually*)

Defendants.

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CIVIL ACTION NO. 2:19-cv-05030-JDW

**ORDER**

In accordance with the Court’s November 13, 2020 Order, Defendant The Middle East Forum (“The Forum”), Daniel Pipes and Gregg Roman (collectively, “Defendants”), by counsel, hereby submit their Petition for Attorneys’ Fees, and support thereof, states as follows:

**Introduction**

On November 11, 2020, following a series of motions by The Forum seeking to obtain discovery and hearings held by this Court to compel compliance with the Orders of this Court by Plaintiff Lisa Barbounis and her counsel, Seth D. Carson (ECF Nos. 59, 61, 62, 63, 65, 68, 69), and following continued noncompliance by Plaintiff and her counsel, The Forum renewed its Motion for Contempt against both. (ECF No. 72). On November 12, 2020, this Court ordered counsel for the parties to attend a hearing, which was held on November 13, 2020. (ECF Nos. 73, 75). As a result of that hearing, the Court granted the Forum’s Motion for Contempt and, in relevant part, held as follows:

It is FURTHER ORDERED that the Court determines that an award of attorneys’ fees for MEF’s costs of preparing this Motion and participating in today’s hearing is appropriate pursuant to Fed. R. Civ. P. 37. MEF may file a Petition for Attorneys’ Fees on or before November 20, 2020; Plaintiff’s response is due on or before December 11, 2020.

(ECF No. 74).<sup>1</sup>

In the interest of efficiency, and as this Court has already determined that “an award of attorneys’ fees is appropriate,” The Forum’s Petition will focus on the amount of fees incurred in preparing the Motion for Contempt and participating in the November 13, 2020 hearing. Should the Court wish for further support for The Forum’s general entitlement to fees, The Forum respectfully refers the Court to its briefing on its Motions for Contempt (ECF Nos. 65, 72), and stands ready to provide any additional information or briefing that the Court might require.

### **The Fees Incurred by the Forum**

The Forum, Daniel Pipes and Gregg Roman are represented by David J. Walton, Jonathan R. Cavalier, Leigh Ann Benson and Joe Tate of Cozen O’Connor. Defendant Gregg Roman is also represented by Sidney L. Gold and William Rieser of Sidney L. Gold & Associates, P.C. Cozen O’Connor took the lead in preparing the Motion for Contempt giving rise to this Petition, while attorneys from both Cozen O’Connor and Sidney L. Gold &

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<sup>1</sup> In its November 13, 2020 Order, the Court also ordered the parties to confer with Cornerstone to facilitate production of Plaintiff’s outstanding discovery, to meet and confer among themselves to determine a schedule for Plaintiff’s production and to submit a status report to the Court no later than the close of business on November 16, 2020. Lastly, the Court ordered Attorney Carson to submit a daily status report to chambers setting forth how many documents he reviewed that day, how many documents were produced that day, and how much time he spent reviewing and/or producing documents that day. (ECF No. 74). Mr. Carson failed to comply with that Order, and consequently, this Court issued another Order on November 17, 2020, requiring (1) Attorney Carson to submit a memorandum by 12:00p.m. on November 20, 2020 explaining why the Court should not sanction him for his failure to comply with the Court’s Order requiring him to provide daily updates, and (2) the parties to submit memorandums on or before November 20, 2020 addressing whether the Court should impose additional discovery sanctions on Plaintiff and her counsel. (ECF No. 77). Defendants submitted their memorandum as ordered. (ECF No. 78). At the time of this filing, it appears that Attorney Carson has not complied. Nevertheless, as set forth in the Court’s November 13, 2020 Order, in this Petition, The Forum seeks only the fees that it incurred in preparing its previous motion for contempt (ECF 72), but reserves the right to seek recovery of its attorneys’ fees incurred as a result of the continuing noncompliance by Attorney Carson and Plaintiff Barbounis.

Associates prepared for and attended the November 13, 2020 hearing. The fees incurred by the Forum and Mr. Roman for their attorneys' work in preparing the Motion for Contempt and in preparing for and attending the hearing are as follows:

David J. Walton: 7.9 hours at \$340/hr

Jonathan R. Cavalier: 3.3 hours at \$340/hr

Leigh Ann Benson: 9.4 hours at \$250/hr

Joseph Tate: 4.4 hours at \$250/hr

Sidney L. Gold: 2.0 hours at \$340/hr

*See* Exhibit A, Declaration of David J. Walton at Paragraph 6. The total fees incurred by all Defendants in connection with preparing the subject Motion for Contempt and in preparing for and attending the hearing on that motion are \$7,898.00. *See* Exhibit A at Paragraph 7. True and correct contemporaneous documentation of the substantive hourly entries and detailed billing records supporting the above-incurred time are set forth at Attachment A to Declaration of David J. Walton.

Attorney Cavalier spent an additional 3.6 hours on November 19 and 20, 2020, drafting the instant fee petition, collecting and analyzing the supporting documentation, performing necessary research, revising the petition and preparing it for filing. *See* Exhibit B, Declaration of Jonathan R. Cavalier. Attorney Walton spent an additional 1.0 hours reviewing and revising the Petition and supporting certifications prior to filing. *See* Exhibit A at Paragraph 10. Thus, if the Court deems it appropriate to award Defendants their attorneys' fees in preparing the instant petition, the total fees incurred by Defendants in connection with its Motion for Contempt are \$9,462.00.

**The Fees Requested Are Reasonable**

Attorney David J. Walton is a Shareholder and Chair of Cozen O'Connor's Cyber Solutions and Data Strategies Group, a former chair of the firm's Privacy, Data & Cybersecurity practice, a former Vice-Chair of the firm's Labor and Employment Department. He has more than 25 years of experience, including substantial first-chair trial experience, successfully litigating the full gamut of employment discrimination claims, including class actions and individual claims. Attorney Walton's primary substantive focus is labor and employment law and he is a frequent speaker at national conferences on trade secret litigation, digital forensics, e-discovery and cyber law, and has published numerous articles on these topics. Attorney Walton is the lead attorney for the Forum on this matter and his regular hourly rate for matters of this type is \$715 per hour, but his contracted rate on this case is \$340 per hour. *See* Exhibit A at Paragraph 1.

Attorney Jonathan R. Cavalier is a member of Cozen O'Connor's Labor and Employment Department with more than 13 years of experience in labor and employment litigation. He has substantial trial experience, including as first-chair in state and federal jury trials, and was recently named a "BTI Client Service All-Star" - one of only 49 labor and employment lawyers featured on this prestigious, national list based on candid feedback from corporate counsel at nearly 300 Fortune 1000 companies, and which recognizes lawyers who demonstrate superior client focus, have an exceptional ability to understand their client's business, consistently exceed clients' expectations, possess excellent legal skills and depth of knowledge, and deliver outstanding results. Attorney Cavalier holds a J.D. from Temple University Law School and an MBA from Temple's Fox School of Business. Attorney Cavalier

represents The Forum and his regular hourly rate for matters of this type is \$500 per hour, but his contracted rate on this case is \$340/hr. *See* Exhibit A at Paragraph 2.

Attorney Leigh Ann Benson is an associate in Cozen O'Connor's Commercial Litigation Department with experience representing clients in a wide range of areas including labor and employment. Attorney Benson is an associate editor for TYL, the flagship publication for the Young Lawyer Division of the American Bar Association, and a member of the Young Lawyer Editorial Board of The Legal Intelligencer. Since 2018, Leigh Ann has been a member of the Villanova Law J. Willard O'Brien American Inn of Court. Attorney Benson received her J.D. from Villanova University School of Law and her Bachelor of Arts, magna cum laude, in English from Virginia Tech. Her regular hourly rate for matters of this type is \$400 per hour, but her contracted rate on this case is \$250 per hour. *See* Exhibit A at Paragraph 3.

Attorney Joseph Tate is counsel at Cozen O'Connor and director of Electronic Discovery and Practice Advisory Services (ePAS). Attorney Tate leads the firm's eDiscovery efforts, and is responsible for the day-to-day management of a team of attorneys and technologists that handle all phases of the eDiscovery lifecycle. He has extensive experience leading the eDiscovery element of meet and confer conferences, preparing and negotiating ESI protocols, drafting and responding to discovery motions and requests, and taking and defending depositions of IT personnel and record managers. He also regularly counsels clients and colleagues on complex legal issues related to eDiscovery, the attorney-client privilege and work product doctrine, information governance, and litigation readiness. He is also a member of the leading eDiscovery and information management organizations including the Sedona Conference Working Group 1, ILTA (International Legal Technology Association), and ARMA (Association of Records Managers and Administrators). His regular hourly rate for matters of this type is

\$450 per hour, but his contracted rate on this case is \$250 per hour. *See* Exhibit A at Paragraph 4.

Attorney Sidney L. Gold is the principal shareholder at Sidney L. Gold & Associates P.C., which has been recognized by the Martindale-Hubbell Bar Register as a preeminent law firm in the field of employment law and civil rights litigation. His practice, as well as that of the law firm, is exclusively concentrated in the representation of both employees and employers in all aspects of employment related litigation in Pennsylvania and New Jersey, including claims under federal and state anti-discrimination laws and federal civil rights laws. He has written extensively on issues of employment discrimination and has authored many articles for the Legal Intelligencer and Pennsylvania Law Weekly, and he serves as an arbitrator and mediator for the U.S. District Court for the Eastern District of Pennsylvania. Attorney Gold represents Mr. Roman and his regular rate for matters of this type is \$500 per hour, but his contracted rate on this case is \$340 per hour. *See* Exhibit A at Paragraph 5.

Cozen O'Connor has conducted detailed rate studies indicating that the rates charged by its attorneys generally and the attorneys representing Defendants in this matter are substantially below the median market rates for comparably sized firms in the area. Furthermore, given the scope and nature of this case and the amount of time required to adequately represent their respective clients, the attorneys above have agreed to represent their clients in this matter at substantially discounted hourly rates. *See* Exhibit A at Paragraph 6.

“The best evidence of whether attorney's fees are reasonable is whether a party has paid them.” *Cintas Corp. v. Perry*, 517 F.3d 459, 469 (7th Cir. 2008) (Finally, Defendants in this matter have paid and will continue to pay for the services of the attorneys representing them in this matter at the rates listed above, including for the time billed to prepare the motion to compel

and to prepare for and attend the hearing that are the subject of this petition. “The best evidence of the reasonable rate for an attorney’s time is the customary billing rate for clients, which creates a presumption of reasonableness.” *Shanea S.v. School Dist. Of Philadelphia*, 2014 WL 2586940, \*2 (E.D. Pa. Jun. 10, 2014). In other words, as opposed to a contingency fee case, where the rates charged by attorneys are largely hypothetical, “What a lawyer charges his fee paying clients is powerful, and perhaps the best, evidence of his market rate.” *Valley v. Ocean Sky Limo*, 82 F.Supp.3d 1321, 1327 (S.D. Fla. 2015).

The time expended on this matter by the above attorneys in representation of The Forum and Mr. Roman have been and will continue to be timely paid at the listed rates in The Forum’s normal course of business. *See* Exhibit A at Paragraph 12. As set forth above, this establishes a presumption that the rates charged and hours expended by its attorneys are reasonable.

### **Conclusion**

As set forth above, and for the reasons set forth in its prior motions and the Court’s Order of November 13, 2020, Defendants The Middle East Forum, Daniel Pipes and Gregg Roman respectfully petition the Court for an award of reasonable attorneys’ fees in the amount of \$9,462.00.

Respectfully submitted,

COZEN O'CONNOR

BY: /s/David J. Walton

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*Attorneys for Defendant  
Gregg Roman*

November 20, 2020

**CERTIFICATE OF SERVICE**

I hereby certify that I served upon all counsel of record a true and correct copy of Defendant The Middle East Forum's Petition for Attorneys' Fees as Set Forth in the Court's November 13, 2020 Order (ECF No. 74) via ECF filing.

/s/ David J. Walton

David J. Walton, Esquire

**COZEN O'CONNOR**

*Attorney for Defendant,  
The Middle East Forum*

Dated: November 20, 2020